Evans, Howard

The perpetual tenure of town holdings

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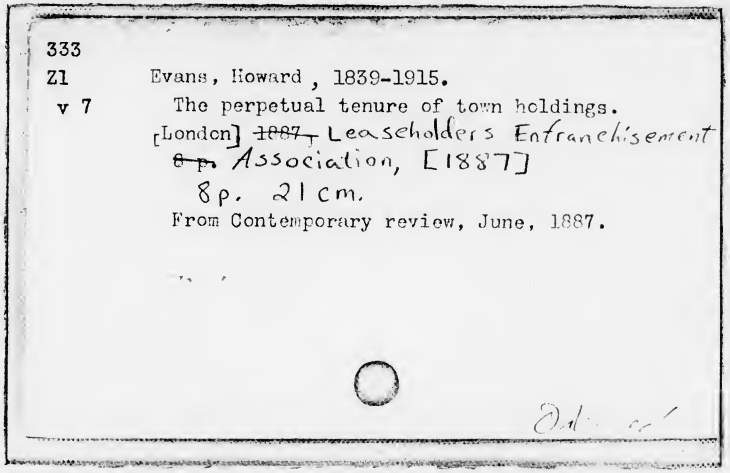

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THE PERPETUAL TENURE of TOWN HOLDINGS

By HOWARD EVANS.

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ABOUT three years ago, Mr. Broadhurst, Mr. James Rowlands, and myself founded the Leaseholds Enfranchisement Association, whose object is to obtain for urban leaseholders compulsory power of purchasing the fee-simple on equitable terms; or, to put the matter still more simply, to enable a man who holds the lease of a house to buy up the ground-rent. I am compelled to say "the man who holds the lease," and not "the leasehold owner," for, strange as it may seem to simple people, no such thing as leasehold ownership exists. Many leaseholders imagine that they are owners, if only for a limited term; but this is not the case. A man sees a notice outside a new house—"This House to be Sold;" he goes to the vendor, who is probably a builder, and pays down in hard cash the full market value of the house: nevertheless he does not become its owner. The law holds that any permanent structure placed upon a peice of land is the property of the owner of the land. What the man has bought is simply the use of the house, and the ground upon which it stands, for a term of years, provided he continues regularly to pay a certain amount of ground-rent, and fulfils a number of onerous conditions as to repairs, insurance, and the purposes for which the house shall be used. He may not pull down the house nor make structural alterations without the ground landlord's consent, nor use it for any other purpose except that specified in the lease; he must insure against fire in a particular office, and if it is burnt down he must rebuild to the ground landlord's satisfaction; and he must pay all present and future rates and taxes. He holds the lease of "the premises"—*i.e.*, of the land described in the beginning of the document—but he is not the owner of the house, though he has paid its full value. The very terms in which the agent of the ground landlord demands the ground rent are significant: "Attendance will be given for receipt of rent due to Mr. —— for premises in your occupation."

In the suburbs of every town under the terminable leasehold system, for years before the land is built upon, its value in the market steadily rises, and not unfrequently increases by leaps and bounds. That increase of value is partly due to the thrift and enterprise of the people already living in the town, partly to the expenditure of those people through the local rates; but the land, until it is covered with houses, only pays rates on the agricultural value. In the suburbs of London thousands of houses have been built since the Metropolitan Board of Works constructed the main drainage system, in the advantages of which all these houses share; but the owners of the land on which they are built only contributed an infinitesimal fraction of the cost. The ground landlord, as soon as he grants a lease, takes care that the leaseholder shall covenant to pay all rates, and if he is not an occupying leaseholder, he has to bear all the risks of failure to let, and of temporary depreciation of rent through over-building. Indeed, in towns which

depend mainly upon one industry the leaseholder stakes the whole of his money on its permanent continuance. The ground landlords contend that they let their land at a lower rent in consideration of their one-sided covenants—a disputable proposition which I will not here turn aside to controvert; but whatever amount of truth there may be in the proposition, it cannot be denied that they escape the whole of the burden of any increase in the rates or of any new rate. For example: no man when taking the lease of a new house in London in 1850 could calculate or having to pay a Metropolitan Board rate which has gradually grown to 7½*d.* in the pound; no man when taking a lease of a new house in London in 1868 could calculate on having to pay a School Board rate of 9*d.* in the pound; no man when taking a lease of a new house in Finsbury Park and some other London suburbs could calculate on having to pay a local improvement rate which would for some years swallow up a fourth or fifth of the letting value. In each of these cases the payers of rates are liquidating the principal as well as the interest of the money borrowed. Thus the ground landlord, into whose hands the property will ultimately pass, escapes at the end as well as at the beginning. His representatives may juggle as they will with musty legal axioms and modern economic fallacies: the fact remains, that the terminable leaseholder has to bear the burdens of ownership, yet does not own.

Those who are directly interested in the preservation of the terminable leasehold system have recently issued a pamphlet, which they have printed, but shrink from publishing. The public will not fail to note their tactics. For three years a few of the victims of the leasehold system have attacked it on the platform and in the press, and have done so openly, challenging discussion, and not without effect, considering that the enfranchisement of leaseholds is now a recognized plank in the platform of the National Liberal Frederation, and has been accepted also by Lord Randolph Churchill and several other members of the Conservative party. Our interested opponents, who have all the advantages of an intimate acquaintance with the workings of the system, prepare a case to be laid before the Town Holdings Committee, but supply copies thereof only to one or two newspapers who are notoriously hostile to our demand, and refuse to sell a single copy across the counter of their printers. They take care that hostile newspaper articles shall be written against us, and they take equal care that we shall not have an opportunity of replying; thus leaving on the public mind the impression that we have no answer to a case that we have never seen fully stated. These gentlemen affect to despise the ignorance, of the victims of the terminable leasehold system. Well, we confess our ignorance, and frankly admit that we are now only half enlightened. We only knew that the great ground landlords of London, who neither toil nor spin, were growing fabulously rich, and that some of them, or their heirs, when their leases fell in, would draw revenues greater than those of not a few of the smaller States of Europe. Further, we knew that we were contributors to their vast revenues, through the system of periodic confiscation which they had forced upon us. Further, we knew that the satellites of the ground landlords were great gainers by the present system. I lay stress upon this, because a few years ago, when I passed as a small occupying leaseholder from one house to another, owing to a family requirement of additional bedrooms, I had to pay £35 to two sets of these gentlemen for doing next

door to nothing. Yes, it is true that we knew but little when we put our hands to the work, but we have been steadily adding to our stock of information, and have unearthed some of the mysteries of the system so that we have acquired quite sufficient information to enlighten our fellow countrymen, and to meet our opponents before a Select Committee of the House of Commons. Even now we do not pretend to have probed to the bottom the cruelty and extortion which are the fruits of the system in remote districts, but we know quite enough to join issue with our interested antagonists, who, by the way, are unwittingly assisting us now, just as they did in giving their evidence before the Royal Commission.

We expected that those who are connected with great leasehold estates would be leagued against us; they would be more than human if they did not resent our attack upon their vested interests, for as a matter of fact they are more directly concerned in the maintenance of terminable leaseholds than their employers. The interest of the ground landlord is often remote; that of his agent or solicitor is immediate. On one of the largest estates in the West End of London a fee of two guineas must be paid down before an answer can be obtained to the simple question on what terms a house may be leased. Gentlemen who require a payment of two guineas before they will condescend to reply to a question, which can be answered in five minutes, have an obvious objection to our proposal. I know another estate at the West End where a friend of mine has a lease of a corner shop. That lease bristles with restrictive covenants against the carrying on of the most ordinary trades; not that they are intended to be enforced, but that the agent may secure a fresh fee for granting permission every time there is a change in the nature of the business. The great majority of leaseholders are compelled to insure in some particular office. To secure the freeholder it would be sufficient that the leaseholder was compelled to insure in an office approved by the freeholder, but this would not suit the agent, who of course takes care to get his commission for all the fire insurance business he brings to the office. Every new lease is a source of profit, to be paid by the leaseholder to the solicitor of the estate. We have plenty of lawyers on our side who would welcome the more general distribution of legal business; our opponents are the estate lawyers, to whom a great leasehold estate is a mine of wealth regularly worked at the leaseholder's cost. Mr. Arthur Burr, who has the management of the Haldon estate at Torquay and of the Mansel estate at Swansea, and who has an enfranchisement clause in his leases, having first had a model lease drawn up, printed it, and freely distributes copies to those who desire to take land. The lawyers connected with great London estates charge eight or ten guineas, or more, for the lease of a small house. We never hoped that these gentlemen would be on our side.

Our opponents have long succeeded in imbuing the minds of the people of London with the superstition that the terminable leasehold system is a part of the order of Nature, just as Lord Beaconsfield used to insist upon his doctrine of the three profits when addressing the Buckinghamshire farmers. We have knocked that superstition on the head. It is now demonstrated that, to say nothing of Scotland, in the majority of the great towns of England terminable leases are unknown. Mr. Charles Harrison, one of the most eminent men in the legal profession, has collected a great mass of information from town clerks and

other legal authorities in all parts of the country, by which he has been enabled to prepare a leasehold map of England and Wales, which he has placed before the Town Holdings Committee. This map shows that over the greater part of this country the people are in happy ignorance of the system against which we contend. Not a few attempts have been made to introduce it, but except in places where they could not help themselves, the people would have nothing to do with it. Mr. Eli Sowerbutts, the secretary of a large building society at Manchester, testified before the Royal Commission that the men of Manchester would not have it at any price ; Mr. Fatkin, the secretary of another large building society at Leeds, showed that the Leeds people would not lend money on leasehold security in any of the leasehold towns ; the trustees of Sir John Ramsden's estates long ago tried to introduce the system of periodic confiscation into the West Riding of Yorkshire, but no one would take up the land, and accordingly they had to go to Parliament again for power to grant leases for 999 years, which is equivalent to a perpetual tenure. Though Sir John Ramsden's trustees failed, I regret to say that in some cases, where the land monopoly enabled the landlord to dictate his own terms, the obnoxious system has been forced upon the people, and of late it has even been introduced into Scotland, which till recently was entirely free from its baneful operation.

The system prevails extensively in London, Woolwich, Cardiff, Swansea, Grimsby, Southport, Folkestone, Jarrow, Newport, Pembroke Dock, Merthyr, and the Welsh quarry districts and watering-places, It obtains partially at Sheffield, Liverpool, Birmingham, Walsall, Oxford, Cambridge, Southampton, and a few other towns. In its worst form of life leases it is found at Devonport, Malvern, in some parts of Wales, and in the most populous portions of Cornwall. As the greater part of England is free from it, it is therefore neither an economic nor a social necessity, and the flimsy pretext that it is absolutely requisite in order to prevent men from injuring each other's property, falls to the ground. If any other refutation is required, it will be found in the return obtained by Lord Granville from the British embassies at various continental capitals, which showed that terminable leaseholds are almost unknown on the Continent, and that municipal regulations are quite strong enough to prevent one man from injuring his neighbour's property. So much for the Cats'-meat-shop-in-Belgrave-Square argument. But before I leave it I must remark that the ground landlord is after all only a protector as long as he chooses to act, and that when his interest is the other way he will consult his own interest first. From the way in which our opponents talk it might be supposed that, while the leaseholder is bound by covenent not to injure his neighbour's property, the ground landlord is also bound by covenant not to allow the leaseholder's property to be injured. But it is not so. The ground landlord in effect echoes the words of Miss Flora McFlimsy of Madison Square to her lover : "This is a sort of engagement, you see, which is binding on you, but not binding on me." I speak from experience. A few years ago I was a leaseholder on a suburban London estate. Some houses in the main road, out of which my road turned, having been badly built by a jerry builder, fell at length into my ground landlord's hands He found some difficulty in letting them as private houses, and so for his own profit let one to a cobbler, another to a newsvendor, another to a sweetstuff-shop. Remonstrance was useless. Our supposed protector was himself the man who injured our property. He was sure of his ground-rents, no matter what loss he inflicted upon us. Myself and other leaseholders were too glad to sell at a disadvantage before the neighbourhood had further degenerated. I could give other examples, but this will suffice.

The term of original leases ranges from ninety-nine years down to forty years. In those parts of Wales which are in the hands of one proprietor, or of two or three who come to a common understanding, sixty years is the customary term, though the houses are built of such splendid materials that they will last for two or three hundred years. In London the old customary term of ninety-nine years has been largely cut down to eighty years, not only by the Metropolitan Board of Works, but also by owners of suburban estates. But this is not all. The leaseholder of a new house rarely gets the full term. His lease is often—I think I may say generally—ante-dated. I know that I have never had my full term, and that it is a common experience in others. There is a very large estate in the south-east of London where the nominal term is only eighty years, but it has taken five years to develop the estate, and those who now take original leases really have not more than seventy-five years. The difference is hardly likely to deter a man from taking a house ; but this is only one of other proofs that might be cited of the truth of the axiom, that all things work together for good to the ground landlord.

We are met at the outset with the objection that our proposal is an interference with freedom of contract. Of course it is. So was the abolition of slavery, so were the Factory Acts, so were the Truck Acts, so was the Agricultural Holdings Act, so was the Hares and Rabbits Act, so is Mr. Chaplain's Allotments Bill. It is now recognized by all, except the doctrinaires of the Liberty and Property Defence League that freedom of contract should be limited where there is a great inequality of status between the two parties. This more especially applies where the natural monopoly of land is in question. I learned this doctrine long ago, as assistant-secretary of the Land Tenure Reform Association, from the lips of John Stuart Mill ; but it is hardly worth while to offer arguments in its favour now. Mr. Chaplain's Allotments Bill, which is backed by eminent Conservative members, has no other logical basis than this principle. He applies it only to the country ; I apply it also to the town. Devonport is owned by one man ; those who wish to work there or carry on business there, must agree to his terms or remove. Blaenau Festiniog, the largest quarry town in North Wales, belongs to two or three men ; the quarrymen must submit to their terms, or depart. The land available for building purposes in Pembroke Dock belongs to one man ; the dockyard hands must accept the conditions he imposes, or give up their employment. If any one contends that this ought so to be, I do not reason with him ; but I appeal to the people of Devonport, Blaenau Festiniog, and Pembroke Dock, to give a mandate to their parliamentary representatives on the question. Even in London there is not much greater liberty of choice when all circumstances are taken into consideration. Five years ago I was compelled to look out for a house with certain condition as to size, locality, and proximity to a railway line with one particular terminus. After four months' unwearied search I failed to find a single one on freehold tenure that suited my requirements ; and I am but one among many.

We base our demand upon the simple proposition that the terminable leasehold system is contrary to public policy. Everything turns upon that. If we cannot prove it, we have no case; if we do prove it, our case is impregnable. When the Royal Commission on the Housing of the Working Classes was receiving evidence, the Leasehold Enfranchisement Association was only struggling into existence, and took no steps to secure witnesses; yet ten of the seventeen Commissioners—viz., Cardinal Manning, Lord Carrington, Sir George Harrison, Mr. Lyulph Stanley, Mr. E. D. Gray, Mr. Torrens, Mr. Broadhurst, Mr. Jesse Collings, Mr. George Godwin, and Mr. Samuel Morley—signed a supplementary report, in which they declared that "the prevailing system of building leases is conducive to bad building, to deterioration of property towards the close of the lease, and to a want of interest on the part of the occupier in the house he inhabits; and that legislation favourable to the acquisition on equitable terms of the freehold interest on the part of the leaseholds would conduce greatly to the improvement of the dwellings of the poor of this country." Of the remaining seven Commissioners, the Prince of Wales was necessarily precluded from expressing an opinion on such a matter, and the president, Sir Charles Dilke, was only hindered from signing by his official connection with the Government. I am content to rest the contention that the terminable leasehold system is contrary to public policy upon this supplementary report. Yet it is woefully defective, for it fails to bring to light the fact that, though it is to the interest of a nation that the number of persons who have a stake in the country should be as large as possible, the terminable leasehold system works in a contrary direction. In forty, sixty, eighty, or ninety years the fruits of a small man's industry and self-denial, instead of passing to one or more of his descendants, fall into the insatiate maw of the ground landlord. Thus that which should be the most desirable form of thrift means the ultimate disinheritance of a man's heirs.

The interested persons who call themselves the "Evidence Committee" have laid down certain main propositions. The first affirms that "the existing system in each locality has been determined, not by the caprice of the landlords, but by the demand of the public." That is untrue. The terminable leasehold system is altogether modern, and is due to the desire of owners of settled estates and their satellites to preserve the estates in the hands of the family, and at the same time to make them available for building purposes. Some agents go so far as to say that there is no demand for enfranchisement. Of course, no such demand is made to these gentlemen, because everybody knows that on the great estates of London it would not be granted. Mr. Hunt, Lord Portman's agent, told the Royal Commission on the Dwellings of the Working Classes that he had never received such an application; but when hard pressed he admitted that the reason was that people probably imagined that it would not be of the least use to apply. But on some of the smaller estates such applications are not unfrequent. Before me lies an answer received by a leaseholder on one such estate at the West End, in which the agent writes: "Your letter as to the enfranchisement of this ground-rent is one of many similar letters which I receive. I do not generally answer them. [Mark the lordly insolence of tone.] If any, and when the Enfranchisement Bill passes, the freeholders will of course consider what they ought to do, as the exact provisions of any Act will then be before them."

The "Evidence Committee" contend "that in districts where the value of land is high, the builder cannot afford to pay ready-money for his land, but must obtain it on credit, and that the leasehold system affords him the readiest method of effecting this object." This contention is irrelevant. If a Leasehold Enfranchisement Bill were passed the builder would be in no worse position than now, for he would still obtain land on credit, and with this advantage, that he would be able, when he had built a house, to offer to a buyer a lease with the right to enfranchise. The rule in the suburbs of London is for the builder to take a plot of land on a building agreement, by which the freeholder engages to grant leases on certain terms when the houses are built. If a Leasehold Enfranchisement Bill were passed, the same process would still obtain. Self-interest would still impel the freeholder to facilitate building on his land, so that he might obtain urban and not agricultural value from it. In the majority of cases the example of the Duke of Devonshire would be followed. Occasionally builders would buy land outright, being well aware that they can borrow more easily and more cheaply and a proportionately larger sum on freehold than on leasehold. Sometimes the freeholder would build on his own account, much to the advantages of his future occupying tenants, for he would take care that his houses were well built. We are fighting the battle of occupiers as well as leaseholders, and their interests require that every house shall have a permanent and responsible owner.

The advocates of the terminable leasehold system are driven to the position that a weekly tenancy suits a working man far better than the ownership of a house. Mr. Ryde and Mr. Vigers have both laid down this extraordinary doctrine. If it were true of the working man—limiting that phrase to the skilled mechanic—it would not invalidate our position. The great lower-middle class of London are quite as much entitled to consideration as the skilled mechanic. But it is not true. Mr. Vigers endeavours to bolster up his position by the assertion that the terms of building societies are exorbitant. The competition amongst them is too keen. Any man who has saved a third of the cost of a leasehold house can borrow the remainder at five per cent. on the unpaid balance, and with law charges reduced to a minimum. On a freehold house the terms would be much easier, and if we had registration of title the expense would be reduced to a mere flea-bite.

In listening to the evidence given before the Town Holdings Committee I have been struck by the evident hostility of the big agents and estate lawyers to building societies. There seems to be a latent feeling that ground rents and even leasehold property are superior forms of investment which should remain in the hands of a limited class. To me it appears that the ideal State is that in which every citizen has a permanent home of his own—a realization of the ancient Hebrew prophet's vision: "And they shall build houses, and inhabit them; and they shall plant vineyards, and eat the fruit of them. They shall not build, and another inhabit; they shall not plant, and another eat. For as the days of a tree are the days of my people; and mine elect shall long enjoy the work of their hands." Necessarily, we are a long way off from that ideal, but the nearer we approach it the better for the individual citizen, and for the State as a whole. Lord Pembroke not long ago regretted the land owners of England were so few; we propose to multiply them. Conservatives and Liberals are alike anxious to increase the number of

men who have a stake in the country. But every terminable leasehold holding has the sentence of death in itself. There is no permanence in it; at every second or third gereration it has to be created over again. Thus the old story of Sisyphus is repeated. The people are, after all, the best judges of their own inerests. I point the agents of the big estates to the simple fact that the buildings societies of the United Kingdom are nearly two thousand in number, and have a capital of £52,500,000—that is, £8,000,000 more than the amount in the Post Office Savings Bank. This Business, too, is rapidly growing, for as late as 1870 the capital of the building societies did not amount to one-third of the sum above mentioned. Figures, however, do not measure the gain. The advantages of the permanent ownership of a permanent home are multitudinous. In my judgment not the least is, that it checks the unhealthy striving after living for mere appearance, which is one of the most prolific curses of the present age.

Our opponents contend that the enfranchisement of leaseholds would not so much benefit the occupier as the middleman; we answer that the middleman, like the jerry builder, is very much the creation of the terminable leasehold system. Mr. Fatkin, who told the Royal Commission that the jerry-builder hardly found a footing in the freehold town of Leeds, and Lord Northampton's agent, who admitted that the middleman was rampant, establish our position. These convenient scapegoats are really deserving of sympathy. The London builders are the best abused men in existence, and though I have suffered at their hands, I really have not the heart to denounce them. I think that they are as honest as they dare to be, and that the least scrupulous among them have the best chances of success. Frequently they are the mere catspaws of land speculators and their satellites, and very seldom do they suck the plunder which they are popularly supposed to enjoy. As for the middleman, who speculates on the fag-ends of leases, if his opportunities were taken away, he would naturally return to the discounting of bills, or to the management of a dolly-shop. House-jobbers will always flourish where leasehold tenure exists, and, as Lord Northampton's agent showed before the Royal Commission, the ground landlord neither will nor can control them. So long as there are leases there will be fag-ends of leases, and speculators in those fag-ends. Destroy the terminable leasehold system, and the house-jobbers would find their occupation gone.

I have only to add that, in common with many other advocates of leasehold enfranchisement, I would convert every terminable lease into a lease of £99 years on equitable terms, giving the leaseholder the right to enfranchise subsequently.

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